



The Judiciary Review

Report from the Senate Judiciary Committee (D)

JAY COSTA, DEMOCRATIC CHAIRMAN

(717) 787-7683

JULY 2006

SENATE JUDICIARY COMMITTEE ADDRESSES CRIME

■ **House Bill 2328** **Printer's No. 4440**

The legislation would double the amount of the maximum fines imposed for criminal convictions currently provided in the Crimes Code. Further, the legislation would establish an additional assessment of \$50.00 for each case where a defendant accepts ARD; is convicted of, or pleads guilty to, a felony or 1st or 2nd degree misdemeanor under the Crimes Code; or is convicted of, or pleads guilty to, illegal possession of a controlled substance under the Controlled Substance Act. All fines imposed for violations of 18 Pa.C.S. Chaps. 41, 47, 49, 57 and 76 are to be deposited into the General Fund to offset the cost of paying for fulltime district attorney's salaries.

Finally, the legislation would require the Pennsylvania Commission on Sentencing to adopt guidelines for fines or other lawful economic sanctions, within the limits established by law, which shall be considered by the sentencing court in determining the appropriate sentence for defendants who plead guilty or nolo contendere to or who are found guilty of felonies and misdemeanors.

Current Status: Governor's Desk.

■ **House Bill 456** **Printer's No. 1074**

The bill amends the Crimes Code to establish the offense of "Terrorism" and to authorize the forfeiture of property used for terrorist activities. A person would be guilty of terrorism if the person commits a "violent offense," with the intent to intimidate or coerce a civilian population; influence the policy of a government

by intimidation or coercion; or affect the conduct of a government. "Violent offense" is defined as an offense under the Crimes Code which is punishable by imprisonment for more than one year, and involves an act which is violent or is intended to or likely to cause death, serious bodily injury or mass destruction. That would include all felony offenses and all misdemeanor offenses of the first and second degree.

The bill would also add a new Section 6801.1 to the Judicial Code, providing for the forfeiture to the Commonwealth of all assets of an organization or individual engaged in planning or perpetrating an act of terrorism, and all assets acquired by an individual or an organization for the purpose of planning, conducting or supporting terrorism, or which are derived from terrorism.

Current Status: Act 71 of 2006

■ **House Bill 496** **Printer's No. 4210**

The legislation establishes the offense of "Destruction of a survey monument" under the Crimes Code. Any person who intentionally cuts, injures, damages, destroys, defaces or removes any survey monument commits a summary offense. If the destruction is done willfully or maliciously, in order to call into question a boundary line, the offense is a second-degree misdemeanor. The bill further provides for mandatory restitution for the cost of the reestablishment of permanent survey monuments by a professional land surveyor, and all reasonable attorney fees. The bill also decreases the statute of limitations for the commencement of a civil action, based

upon a defective land survey, from 21 years to 12 years.

Current Status: Act 72 of 2006

■ **Senate Bill 775** **Printer's No. 1795**

The legislation amends the Interstate Compact for the Supervision of Adult Offenders Act by adding the Interstate Compact for the Supervision of Adult Offender Fee as a restricted receipts account in the state treasury. The legislation authorizes the imposition of an application fee for persons who wish to transfer their supervision from Pennsylvania to another state under the compact. The application fee may not exceed \$150. Persons on parole would make application to their supervising parole authority either in a county or the state Board of Probation and Parole.

Current Status: Act 100 of 2006

■ **Senate Bill 1150** **Printer's No. 1835**

The bill amends the Crimes Code establishing the offense of demonstrating at a commemorative service. The section provides that a person commits a misdemeanor of the third degree if a person engages in demonstration activities within five hundred (500) feet of any cemetery, mortuary, church or other location being used for a commemorative service within one hour before, during or after such service. A misdemeanor of the third degree is punishable by a maximum fine of \$5000 and a maximum term of imprisonment of one year. The legislation also provides for a civil cause of action that authorizes injunctive relief, damages and punitive damages.

Current Status: Act 63 of 2006

DOMESTIC RELATIONS

■ *Senate Bill 332* *Printer's No. 1777*

The bill amends the Adoption Act to streamline the procedure for registering foreign adoptions in Pennsylvania. When a foreign adoption decree of a minor is duly issued in another state or foreign country, the adoptive parent shall file an authenticated copy of the decree of adoption, and a copy of the child's visa and birth certificate or other form of birth identification with the clerk of courts of the county of the adopting parents' residence.

The court shall develop a foreign adoption registration form and instructions for its use. The adopting parent or parents shall sign the foreign adoption form indicating that they have read and understand the information. If the court determines the adoption to be final, no hearing is required and the parent does not need to obtain counsel. The court must enter the adoption on the record, issue a certificate of adoption to the parent, and send documentation to the Bureau of Vital Statistics. The court is required to develop a standard petition, court order, and instructions for occasions when a child must be readopted to finalize a foreign adoption. All documents filed with the court shall be maintained by the court as a permanent record and shall be withheld from inspection except on order of court granted upon cause shown.

Current Status: Act 96 of 2006

■ *House Bill 1205* *Printer's No. 1418*

The legislation amends the Domestic Relations Code to provide for the electronic interception of certain awards for the payment of child support arrearages. The legislation provides that each insurer within 30 days prior to making a payment equal to or in excess of \$2,500 to a claimant for a personal injury award or award for workers compensation must make an inquiry

with the Department of Public Welfare (DPW) to determine if the claimant is an obligor with overdue child support. Written certifications to insurers shall be provided by DPW upon the insurer's request specifying the date and amount of child support arrearages. The costs for this report shall not exceed \$20 or the actual cost whichever is less.

If the insurer determines that the claimant or payee is an obligor owing overdue support, the insurer shall withhold the amount of overdue support from the money due the claimant or payee and transmit that amount to DPW for disbursement. The insurer may not withhold for child support collection amounts that are equal to attorney fees, medical debts due physicians and hospitals, witness fees or court costs. DPW shall provide a notice or issuance of a notice to inform the claimant or payee of the receipt of intercepted personal injury award or workers compensation funds and provide for an appeal.

The Code was also amended to provide for automated electronic collections and disbursements.

Current Status: Act 105 of 2006

COURT FEES

■ *Senate Bill 303* *Printer's No. 1780*

The legislation revises the fee schedules and charges that may be levied by constables for services rendered to the judiciary. Additionally, the amendments provide for the prepayment of fees involving landlord-tenant actions in addition to civil actions.

Current Status: Act 59 of 2006

■ *House Bill 1746* *Printer's No. 4389*

The bill amends the Judicial Code to increase a variety of court fees in Philadelphia and to provide for their distribution and use. Further, funding for legal services programs established under Act 122 of 2002 through the Access to Justice Act was extended to December 31, 2011.

Current Status: Act 81 of 2006

PROBATE AND REAL PROPERTY

■ *House Bill 2425* *Printer's No. 3822*

The bill amends Act 40 of 1931 providing for the requirements for valid recording of documents such as deeds and other documents relating to real property. In *First Citizens National Bank v. Sherwood*, 583 Pa. 466 (2005), the Pennsylvania Supreme Court held that a document which is properly recorded, but improperly indexed, constitutes constructive notice to a subsequent purchaser of the real property.

Current Status: Act 86 of 2006

■ *Senate Bill 660* *Printer's No. 1969*

The bill amends the Probate, Estates and Fiduciaries Code to codify the Uniform Trust Code and abolishes the rule against perpetuities. The proposed legislation in this report contains the recommendations made by the Joint State Government Commission Advisory Committee on Decedents Estates Laws.

Current Status: Act 98 of 2006

State Senator JAY COSTA

OFFICES TO SERVE YOU

FOREST HILLS

1501 Ardmore Blvd. • Suite 403
Pittsburgh, PA 15221
(412) 241-6690

CARRICK

2306 Brownsville Road
Pittsburgh, PA 15210
(412) 488-6111

HOMESTEAD

314 East 8th Avenue
Homestead, PA 15120
(412) 565-7536

HARRISBURG

Senate Box 203043
Harrisburg, PA 17120-3043
(717) 787-7683

E-MAIL: costa@pasenate.com

WEB SITE: www.SenatorCosta.com